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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,483	02/12/2004	Hiromi Suzuki	89277.0022	2332

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EXAMINER

WINNER, TONY H

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,483

Applicant(s)

SUZUKI, HIROMI

Examiner

Tony H. Winner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/12/04
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1, 19, and 20 are objected to because of the following informalities:

The word "support" in the recitation "the running gear unit **support** a midway section" is grammatically incorrect and should be changed to – supports ---

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The pre-ample of the claims recite " a saddle-riding-type" is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner is unclear as to what "a saddle-riding-type vehicle" comprising of.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 9-15, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooksey et al. (US. patent 6,193,004 B1).

Cooksey discloses a running gear of a saddle-riding vehicle, comprising: a running gear unit with an engine, which is pivotally supported to a vehicle body to freely swing;

a. an exhaust pipe (figure 1) extending towards a rear portion of the engine; and a support unit for making the running gear unit supports a midway section of the exhaust pipe in a longitudinal direction, the support unit comprising:

b. a first bracket (95) provided on the running gear unit;

c. a second bracket (92) provided on the midway section of the exhaust pipe;

and

d. a pair (94) of engaging members vertically arranged for engaging a rear end part of the first bracket and a front end part of the second bracket with each other in any relative position in a fore-and-aft direction.

With regard to claims 5, 9-15, and 17-18 Cooksey discloses all of the claimed limitations.

With regard to claim 20, Cooksey discloses a method for manufacturing a running gear of a saddle-riding vehicle, comprising:

a. pivotally supporting a running gear unit with an engine to a vehicle body to freely swing;

b. extending an exhaust pipe towards a rear portion of the engine;

- c. making the running gear unit supports a midway section of the exhaust pipe in a longitudinal direction;
- d. providing a first bracket on the running gear unit; providing a second bracket on the midway section of the exhaust pipe; and
- e. arranging a pair of engaging members vertically for engaging a rear end part of the first bracket and a front end part of the second bracket with each other in any relative position in a fore-and-aft direction.

Allowable Subject Matter

4. Claims 2-4, 6-8, and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawamoto ('501), Watanabe et al. ('288), and Aiba ('126) are cited of interest.
6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Anthony H. Winner whose telephone number is (703) 306-5957. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris, can be reached at (703) 308-0629. The fax

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phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information-Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


TONY WINNER
PATENT EXAMINER

October 25, 2004